



# Iowa General Assembly

## 2006 Legal Updates

Legislative Services Agency – Legal Services Division

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### IOWA ATTORNEY GENERAL OPINION - AUTHORITY OF TRIBAL LAW ENFORCEMENT OFFICERS

Sieverding to Gronstal, State Senator, #06-9-1

Issued September 19, 2006

**Issue.** Whether a law enforcement officer of the Sac and Fox Tribe of the Mississippi in Iowa (Tribe) is a peace officer vested with the authority to enforce the Iowa Criminal Code.

**Relevant Statutory Background.** Code Chapter 80B, known as the "Iowa Law Enforcement Academy and Council Act," provides the relevant statutory guidelines for the hiring, training, and certification of Iowa law enforcement officers. Law enforcement officers or appropriately sponsored persons must be certified from an approved state academy or advisory council in order to enforce Iowa law. In 2003, the General Assembly amended this chapter to include a police officer of a tribal government in the definition of law enforcement officer, thereby requiring a tribal police officer to be selected, trained, and certified in the same manner as a state law enforcement officer.

**Analysis.** In order to enforce the Criminal Code in Iowa, a properly certified law enforcement officer must also meet the definition of "peace officer" under the Iowa Criminal Code. Utilizing basic principles of statutory construction, the Attorney General's Opinion (Opinion) relied upon Code section 801.4, the general definition section of the Iowa Criminal Code, to determine whether a tribal law enforcement officer who is properly certified and employed as a tribal law enforcement officer has the authority to enforce the Iowa Criminal Code. The relevant subsection of Code section 801.4 provides that a peace officer, sometimes designated as a law enforcement officer, includes nine enumerated categories of law enforcement officers. The last category, known as the "catchall" provision, provides that "such persons as may be otherwise so designated by law" are included in the definition of a peace officer.

The Opinion looked beyond the broad language of the "catchall" provision, placing specific emphasis on the class nature of the first eight enumerated categories of a "peace officer." The Opinion noted that this class of officers, as a whole, can be characterized as law enforcement officers who obtain their authority as peace officers through certification, appointment, or both, and thus, tribal law enforcement officers, who as of 2003 are, subject to the same state law enforcement selection, training, and certification requirements, fit within this same class of peace officers. The Opinion noted this class characterization is significant because the state selection, training, and certification standards provide the necessary tools to enable the peace officers to enforce the Iowa Criminal Code, and that to deny the "link" between peace officer training and enforcement authority for only tribal officers would be too restrictive of an interpretation of the term "peace officer" and would create an "unwelcome dissonance" between the relevant training and enforcement provisions of the law. The Opinion also noted that tribal law enforcement officers, although employed by a tribal sovereign, detain suspects, investigate criminal activity, make arrests, and otherwise keep the peace in the same manner as other Iowa police officers.

**Conclusion.** The Opinion concluded that law enforcement officers of the Tribe who are subject to the state certification process for law enforcement officers have the authority to enforce the Iowa Criminal Code. In addition, the Opinion noted that this conclusion is limited in scope and does not address whether tribal law enforcement officers are authorized to enforce laws under other Iowa Code provisions.

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